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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	86263642
Applicant	Yahya Kemal Gungor
Applied for Mark	MERSIN
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In re Application of: Yahya Kemal Gungor

Serial Number: 86263642

Filing Date: April 25, 2014

Mark:



Law Office: 113

Examining Attorney: Seth Dennis

APPLICANT'S RESPONSE TO EXAMINING ATTORNEY'S APPEAL BRIEF

The present response is submitted in response to examining attorney's appeal brief on July 25, 2016. A communication mailed July 25, 2015 from the USPTO indicated the deadline for filing the present response to Examining Attorney's Appeal Brief is 20 days from the mailing thereof, i.e., August 14, 2016.

Appellant and owner of the refused mark is Yahya Kemal Gungor for application serial No. 86263642 and hereby submits his response by and through his Attorney, Nihat Deniz Bayramoglu to Examining Attorney's Appeal Brief.

I. PROCEDURAL HISTORY

Applicant filed its trademark application on April 29, 2014 and this application was assigned to examining attorney Seth Dennis, on August 7, 2014. On August 15, 2014, Examiner Dennis sent the First Notification of Non-Final Office Action and the Appellant responded on February 5, 2015. On February 15, 2015, Examiner Dennis sent the Second Notification of Non-Final Office action to the Appellant and the Appellant responded on March 31, 2015. On April 10, 2015, Examiner Dennis sent a Final Notification of Office Action indicating that all three factors of the primarily geographical test were met and that “**MERSIN**” was primarily geographically descriptive. On September 17, 2015, Appellant filed a Request for Reconsideration and Examiner Dennis sent a reconsideration letter on October 08, 2015. On October 10, 2015 Appellant filed a Request for Reconsideration in conjunction with its notice of appeal. On October 29, 2015 that Request for Reconsideration was denied. On December 28, 2015, the applicant filed its appeal brief. On January 23, 2016, applicant’s appeal brief was forwarded to the examining attorney. On March 08, 2016, the examining attorney requested that the Trademark Trial and Appeal Board remand the case to the trademark examining attorney to address applicant’s claim of acquired distinctiveness. On March 08, 2016, the Trademark Trial and Appeal Board granted the examining attorney’s request for remand and restored jurisdiction to the examining attorney. On March 09, 2016, the examining attorney issued a subsequent final refusal because applicant did not provide the required disclaimer of the word **MERSIN** and applicant’s claim of acquired distinctiveness under Trademark Act Section 2(f) did not satisfy the requirements to establish that the mark in the Section 1(b) intent-to-use application had acquired distinctiveness. On April 01, 2016, the applicant filed a request for reconsideration withdrawing the claim of acquired distinctiveness under Trademark Act Section 2(f) and requesting that the appeal on the issue of the requirement to disclaim the word **MERSIN** be resumed. On April 29, 2016, the examining attorney accepted applicant’s withdrawal of the

claim of acquired distinctiveness under Trademark Act Section 2(f) and that issue was determined to be obviated. The examining attorney denied applicant's request for reconsideration concerning the requirement to disclaim the word **MERSIN**. On April 29, 2016, the Trademark Trial and Appeal Board resumed proceedings and provided applicant sixty days to file a supplemental brief. On June 30, 2016, applicant having not filed a supplemental brief during the sixty day period, applicant's appeal brief was forwarded to the examining attorney. On July 25, 2016, the examining attorney filed its Appeal Brief.

II. ISSUES ON APPEAL

A. Statement of Issues on Appeal and Requested Action by the TTAB

1. Applicant appeals the Examining Attorneys' refusal to extend protection to the Unities States/register the trademark, as depicted above, on the ground that the Mark is primarily geographically descriptive under Section 2(e)(2) of the Trademark Act. The issues on appeal before the Board are:

- (i) whether the primary significance of the Mark is that of the name of a place generally known to the relevant purchasing public, and
- (ii) whether the relevant American dairy and pastry purchaser would make the goods/place association.

III. ARGUMENT(S)

In response to Examiner Attorney's appeal brief, please note the following:

Applicant hereby responds to each and every argument raised by examining attorney in his appeal brief.

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MERSIN's Proposed Trademark is Not Primarily Geographically descriptive of the origin of Applicant's Goods

To refuse a registration as primarily geographically descriptive or as primarily geographically deceptively mis-descriptive, the PTO must show that: (1) the mark sought to be registered is the name of a place known generally to the public. (supporting factors are, e.g., a sizeable population of the location, or that members of the consuming public have ties to the location), and (2) the public would make a goods/place association, i.e., believe that the goods for which the mark is sought to be registered originate in that place (the PTO needs to make a prima facie case of likely association). See *In Re Societe Generale des Eaux Minerales de Vittel S.A.* 3 U.S.P.Q.2d 1450, 824 F.2d 957, 960 (Fed. Cir. 1987); *In re Brouwerij Nacional Balashi NV*, 80 U.S.P.Q.2d 1820, 1821 (TTAB 2006). For both prongs (1) and (2), the relevant public is the purchasing public in the U.S. of these types of goods." *In Re The New Bridge Cutlery Company*, Serial No. 79094236, available at 2013 WL 3001454 (T.T.A.B. Apr. 29, 2013) ("Board's Decision"). Here, just as in the *Newbridge* case decided by the Federal Circuit, the evidence as a whole suggests that MERSIN, Turkey, is not generally known; thus, to the relevant public, the mark MERSIN is not primarily geographically descriptive of the goods. There is no evidence to show the extent to which the relevant American consumer would be familiar with the locations listed in the gazetteer or any of the misguided recipes or travel guides cited by the examiner. Moreover, just as the court found that the fact that Newbridge, Ireland, is mentioned on some Internet websites does not show that it is a generally known location, as the Internet contains enormous amounts of information. *Id.* at 13. Here, just as in *Newbridge*, just because the examiner could locate a handful of articles relating to travel, nuclear power plants, sports, recipes, and war; (which reference MERSIN Turkey nearly entirely tangentially) there is nothing to show which consumers of dairy *if any* ever visited the websites or even knew of its existence. On this point, the Court stated: "[I]t is simply untenable that any information available on the internet should be considered known to the relevant public." *Id.* at 14. Therefore the

Examiner has failed to show a prima facie case of likely association. The Court further noted in its finding that Newbridge, Ireland, is not generally known is supported by the fact that certain maps and atlases do not include it, just as some of Applicants provided maps do not show MERSIN on the map.

In this application, Applicant submits the Applicant's mark, when applied to Applicant's goods, is not geographically descriptive. MERSIN is an obscure city unknown to most Americans and certainly not known by the American dairy and pastry consumer. The evidence presented by the Examiner does not prove the extent to which the relevant American consumer would be familiar with the location of MERSIN, Turkey. Even Examiner failed to identify the relevant consumers of the Applicant's products. Some food reviews of Turkish restaurants, blogs from residents of MERSIN, Turkey, and some minor mentions on European and Middle Eastern travel sights does not prove that MERSIN, Turkey is generally known to the American consumer of dairy and pastry products.

To the American purchasing public, the primary significance of MERSIN is not geographic because the city of MERSIN, Turkey is relatively remote and obscure. Applicant's customers are the average purchasers of dairy and pastries, not the unusually well-traveled person or dairy and pastry aficionado. See *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 3 U.S.P.Q. 2d 1450, 1452, 824 F.2d 957 (Fed. Cir. 1987). The examiner has produced evidence to show some knowledge of MERSIN amongst travel aficionados, or perhaps even that it is a geographic locale known within Turkey, but there is nothing in the record that establishes that the American Purchasing public, is aware of MERSIN as a geographic locale, and to the American purchaser of dairy and pastry "MERSIN" could just as easily be a "fanciful" term that is entirely made up. As noted above the examiner has failed to even define the purchasing public and examine that subsection of the populace.

More particularly, the refusal to register the present mark is improper based upon the Examining Attorney's perceived elevated knowledge of the purchasing public of MERSIN,

Turkey is just simply the wrong legal conclusion. When all of these factors are properly evaluated, the absence of evidence in the record to support the examiner's conclusion, combined with the Applicant's strong evidence supporting the conclusion that MERSIN is a remote and obscure location requires that the refusal of registration is reversed and the mark be registered without a disclaimer of "MERSIN".

A. MERSIN is NOT a Generally Known Geographical Place or Location

The examiner states that MERSIN is a generally known geographic location because it has a large population and would be immediately recognizable to the Turkish population of this country as identifying a geographic location. Examiner states two factors, as identified by Courts, being probative on whether a geographic location is generally known: (i) the size of population of that geographic location, and (2) whether members of the consuming public have ties to that geographical location such that the members of the relevant population would recognize that location. Based on these factors Examiner concludes that Turkish population of this country would immediately recognize MERSIN as identifying a geographical location.

"A mark is not primarily geographic where the geographic meaning is obscure, minor, remote, or not likely to be connected with the goods." *In re Nantucket, Inc.*, 677 F.2d. 95, 99 (CCPA 1982). "The test is whether the Examining Attorney has submitted "evidence to establish a public associations of the goods with that place if, for example, there exists a genuine issue raised that the place is the mark is so obscure or remote that purchasers would fail to recognize the term as indicating the geographical source of the goods." See *In re Societe General des Eau Minerales de Vittel S.A.*, 824 F.2d 957, 959 (Fed Cir. 1987). Put into present context, the Examining Attorney is required to prove that a **relevant** American consumer would in fact readily recognize Mersin as a place which would then indicate that Mersin food products comes from Mersin, Turkey.

The key decision on geographic obscurity came from *Vittel*. *Vittel* is the name of a town in France where water is bottled and then distributed. The water company sought to register the mark VITTEL for a line of cosmetics. The *Vittel* court analyzed the obscurity inquiry as follows:

There can be no doubt that the PTO has established that *Vittel* is in fact the name of a small town in the Voges [sic] mountain region of France where there is a resort with mineral springs – a sap – where the water is bottled and thence distributed somewhere, but how many people in this country know that? Certainly *Vittel* is remote and we deem evidence produced by the PTO insufficient to show that it is not obscure. We think the evidence is inadequate to show that the bulk of cosmetics purchasers, or even a significant portion of them,, would, upon seeing the work *Vittel* on a bottle is skin lotion or the like, conclude that it is a place name and that lotion came from there, rather than simply a trademark or trade name of a manufacturer like Chanel, Bourgois, or Vuitton.”
Id. at 959.

Like *Vittel*, Mersin is a relatively small city in relation to the other much larger population centers of Turkey. As of end of 2014, the entire population of Turkey has an estimated population of 77,695,905. Mersin, is the tenth largest city in Turkey and the estimated population of Mersin at the end of 2014 was 915,703. The nine larger population centers comprise 40.33% of the entire population of Turkey. The Examining Attorney based his conclusion that Mersin was not obscure because of its population but that population must be weighted in proportion to the overall population of Turkey. Mersin is 01.16% of the overall population of Turkey.

Examiner also argues that MERSIN is not remote and obscure, even though its population is as low as 1.16% of total population of Turkey. Examiner compares MERSIN with an Indian city Delhi, which accounts for 1.78% of the total Indian population. This comparison of MERSIN with Delhi is faulty. Delhi is not famous because it accounts for 1.78% of the total population of India, but because it is the national capital of India – the largest democracy in the world. It is common to refer nations by the name of its capital city, like Washington for US,

Beijing for China, and Delhi for India. Further, if we see the 1.78% population of India accounts to around 16.7 million, which is almost 21% of the total population of Turkey. Examiner also compared MERSIN to Los Angeles, which is again a wrong comparison, because firstly LA is a US city so it is obvious for the US population to be aware about LA and secondly, LA is independently famous for Hollywood, the home of the US film and video production industry. US films and videos are not only famous in the US, but are watched by a large population all over the globe.

There is no evidence that suggests that MERSIN has been raised in the consciousness of the average American consumer so as to render it primarily geographically significant. See *In re Nambia Breweries Limited*, 2011 TTAB LEXIS 309 (TTAB Sept. 12, 2011) (hereinafter “NBL”) (“That is, it must be shown that relevant purchasers would readily recognize that the allegedly geographically designation at issue (be it the mark as a whole or the relevant portion thereof) is in fact the name of a geographical place...” (emphasis added.)) The record is devoid of any evidence that consumers in the U.S. would “readily recognize” MERSIN to be the name of a geographical place. In fact, the evidence clearly shows that the primary significance of “MERSIN” to the relevant American public (buyers of dairy and pastry related products) is non-existent because of the remoteness and obscurity of MERSIN as a geographic location.

Examiner also argues that the first twelve results of Google image search of the wording “TURKEY MAP”, shows a map of Turkey and MERSIN appears on those images. But if we look at these images, these images shows map of Turkey with more than 50 to 100 other cities/locations in Turkey. This does not signify that people in this country will be familiar with hundreds of thousands of locations appearing on the maps of different countries. Even in the case of a “Turkey maps” search, the first image shows more than 100 locations marked on map, it doesn’t prove that consumers in **this** country (the United States) know about each place shown on the image of a country **half a world away**. Examiner failed to provide evidence showing the motivation for consumers of Applicant’s goods going on google and searching

these results. Also, google image search doesn't always show the same results in the same order for any search query. In fact, these results depend on various factors; for example some sites or blogs paying google may be placed at the top of the search results, irrespective of their popularity. So, these results do not prove that MERSIN is a generally known geographical place or location for the consumers of applicant's products in this country.

Examiner also included a travel article from Rick Steve's Europe web page. The Examining Attorney posts a page designed for users to comment on other possible cities to visit while in Turkey. There is one reference for travelers to take an un-guided visit to the beaches of Mersin. The Turkish travel ministry does not even highlight Mersin as a popular tourist destination. The Examining Attorney's assertions that Mersin is a tourist center or hub is wrong when the evidence provided by the Applicant rebuts this position to show that there is minuscule reference to Mersin since it is an obscure and unknown locale.

Examiner also included an article published in 2011 called a "Mersin Merchant." This article was posted to a web site called "If the Bag Fits." There is no evidence to support this article was reproduced in any publication in the United States or referenced on any other internet web sites. This article would only be found if someone had actual knowledge of the article or performing an extremely broad key word search of the internet for "Mersin Merchants" or some other specific term. The Examining Attorney cannot support his position that an internet article highlighting a merchant in Mersin, Turkey would make Mersin, Turkey generally known to the average American consumer of the Applicant's products. This article certainly will not raise the consciousness of the average American consumer and make them aware of Mersin, Turkey as a geographic local.

Examiner also provided a printout from Dimple Travel. The most popular travel site GLOBUS offers several guided tours to Turkey. There most popular trip the called "The Best of Turkey" and this trip does not even include the Mersin *Province* let alone the city. The most popular travel site for Americans looking to vacation in Turkey makes no reference of Mersin.

The Examining Attorney has attached a printout from a Turkish travel site utilized almost exclusively by Europeans and Middle Eastern people looking to travel to Turkey. The Examining Attorney cannot support this article would raise the consciousness of the average American consumer and make them aware of Mersin, Turkey as a geographic local.

There is no evidence in the record submitted by the Examining Attorney that Americans of any ilk, let alone buyers of dairy and pastry products, have ever heard of the province (let alone the city) of MERSIN. The examining attorney cannot even include any articles referencing any significance of MERSIN to Turkey or the surrounding region other than the fact that the city has a sea port. Virtually every document relied upon by the Examining Attorney about MERSIN comes from Wikipedia, citizen blogs, or European/Middle East travel sites. The documents describe the history of the city, its population size, educational system and industries. There is nothing on the Wikipedia page that makes MERSIN stand out as a major city in Turkey or the surrounding region. Further, there is nothing showing that the dairy or pastry from MERSIN is known either. There is no evidence which shows MERSIN as the geographic indication of source of Applicant's products. The Examiner's evidence showing food review articles of Turkish restaurants found on the internet does not raise the consciousness of the average American dairy and pastry consumer so as to elevate the meaning of Mersin to being primarily geographically significant. The Examining Attorney's assertions that many tourist travel to MERSIN is also false as it is not listed in many travel websites as can be seen in the evidence provided by the Applicant. In fact, the examiner has failed to identify even one place in MERSIN that is visited by tourists or is a tourist destination.

B. PURCHASERS WOULD NOT BE LIKELY TO MAKE A GOODS-PLACE ASSOCIATION BETWEEN MERSIN AND THE GOODS IDENTIFIED IN THE APPLICATION

The federal Circuit has ruled that the PTO needs only a "reasonable predicate for its conclusion that the public would be *likely* to make the particular goods/place association on

which it relies.” *Miracle Tuesday*, 695 F.3d at 1344 (quoting *In re Pacer Tech.*, 338 F.3d 1348, 1351 (Fed Cir. 2003) itself quoting *Loew’s*, 769 F.2d at 768)) (emphasis in *Pacer*) The Applicant can rebut that presumption by the PTO if the Applicant can demonstrate “that the public would not actually not believe the goods derive from the geographic location identified by the mark.” *In re Save Venice New York, Inc.*, 259 F. 3d 1356, 1354 (Fed Cir. 2001).

Applicant’s customers are the average customers buying dairy and pastries in the United States. Examiner made a huge wrong assumption that applicant’s goods originate from Turkey and are therefore only consumed by the Turkish population of the United States. Applicant’s goods are not specifically the specialty of Mersin and much to the dismay of many Turks, these goods are not even a specialty of Turkey. These goods have origins in countries like Greece, Cyprus, and various Middle East countries like Saudi Arabia, Kuwait, Jordan etc. For example, the claimed goods Hellimi cheese, kasari cheese, and kunefe are famous for historically originating from Cyprus, Greece and the Levant/middle east respectively. None of these goods are famous or specially known for being from Mersin. Pictures of the Applicant’s products submitted by both the examiner and the applicant, shows that a number of the labels are in a foreign languages, the most prominent language on many of them being Arabic, not Turkish. This is for good reason, the subset of Arabs and other minorities (e.g. immigrants and people with ties to Armenia, Greece, Cyprus) *in the United States* are actually expected to be the largest purchasers of the applicant’s goods in the United States. The examiner is unnecessarily narrowing the relevant purchasing public of cheese and pastries, despite applicant’s affidavit to the contrary showing that Turkish-Americans are not the exclusive purchasers of the goods. Even assuming *arguendo* the examiner’s assertion that the relevant public for purchasers of the “MERSIN” mark is the extremely limited group of: purchasers of Turkish food goods, (as opposed to the Applicant’s proposed group of general purchasers of dairy and pastries) nothing in the records shows that purchasers of Turkish food goods are familiar with the various cities in Turkey.

However, if the Examiner is to narrow the purchasers of the goods to the extremely specific subset of purchasers of Turkish cheeses and pastry (in Applicant's case, cheeses and pastries that have Greek and Arab historical origins), the subset should be defined such that: the average person in the subset of the relevant purchasing public would likely be at least the people having connections with Turkey, Greece, Armenia, Cyprus and Arab countries; purchasing Applicant's products at an ethnic supermarket. There are over 1.5 million Americans of Arab descent, nearly 15 times as many as there are Americans of Turkish decent. Similarly, there are more than 1.4 million Americans of Greek descent, and more than 1 million Armenian-Americans. In other words, of the relevant subsection of purchasers of roughly 3.5 Million people, only 100,000 or roughly *three* (03%) percent of the relevant purchasing public are Turkish and ***might*** be familiar with Mersin as a location. Therefore, the overwhelming majority of purchasers in the examiner's proposed narrow subset of the "relevant purchasing public" would be Arabs, Greeks, and Armenians. Even within this narrow subset, the average consumer of Turkish goods would not be familiar with the obscure and remote geographic location of MERSIN, Turkey, and the examiner has provided no evidence to the contrary. Nor would the average consumer of Turkish food goods be familiar with Turkey or Turkish. Even if the hypothetical average consumer was an immigrant from one of Turkey's direct neighboring countries; MERSIN, Turkey would still be an obscure and remote geographic location that has no geographic meaning or goods place association.

A case in which the applied for goods within the umbrella of cosmetics, and the court held: In dealing with all these questions of the public's response to word symbols, we are dealing with the supposed reactions of a segment of the American Public, in this case the mill-run of cosmetics purchasers, not with the unusually well-traveled... See *Vittel, supra* at 959

The Examining Attorney provided no evidence to define the "mill-run of dairy and pastry related food purchasers" whose reactions to the Mark might or might not stir a geographic

recognition. The examiner only suggests that the subset are purchasers of Turkish food products. In fact the **average** (i.e. mill-run) consumer would be Arab-American, Greek-American, or Armenian-American with no knowledge of MERSIN, Turkey as a geographical location due to its obscurity. The TTAB has recognized the burden is on the Examining Attorney to prove a goods/place association “from the perspective of the relevant public for those goods and services”, quoting from *In re Joint-Stock Co. “Baik”*, 80 USPQ2d 1305, 1309 (TTAB 2006).

Further, when examiner cites in appeal brief

“When there is no genuine issue that the geographical significance of a term is its primary significance, and the geographical place is neither obscure nor remote, a public association of the goods with the place is presumed if an applicant’s goods originate in the place named in the mark. TMEP §1210.04; see, e.g., *In re Cal. Pizza Kitchen Inc.*, 10 USPQ2d 1704, 1706 (TTAB 1988) (holding CALIFORNIA PIZZA KITCHEN primarily geographically descriptive of restaurant services rendered in California); *In re Handler Fenton Ws., Inc.*, 214 USPQ 848, 849-50 (TTAB 1982) (holding DENVER WESTERNS primarily geographically descriptive of western-style shirts originating in Denver). In this case, a goods-place association may be presumed because the geographical significance of **MERSIN** is its primary significance, **MERSIN** is neither obscure nor remote, and applicant’s goods originate in **MERSIN**.”

Examiner fails to consider the fact that in the referenced cases, the locations mentioned California and Denver are well known geographical locations in the US. The consumers in this country are well aware of California and Denver. On the contrary, the same level of recognition from the **American** consumers (even the narrow group previously mentioned) for “MERSIN”, , cannot be expected. So, the comparison with these cases is irrelevant for the applicant’s application.

The Examining Attorney overlooks the fact that Mersin, Turkey bears little significance in comparison to the country of Turkey or other countries located in Europe and the Middle East. Examining Attorney added a number of minuscule references to Mersin in an attempt to portray Mersin as a known Turkish Metropolis to the average American consumer. This is nothing more than a veiled attempt to maintain the position that the average American food consumer or purchaser of dairy and pastry goods will confuse the trademark of Mersin with Mersin, Turkey.

Almost all of the articles reference Mersin only tangentially and none of them refer to the location and discuss the location at length. These food review articles of Turkish restaurants found on the internet does not raise the consciousness of the average American dairy and pastry consumer so as to elevate the meaning of Mersin to being primarily geographically significant. Furthermore, even of the small sub-sect of Turkish-Americans (i.e. 03% Three percent) within the relevant purchasing public, it cannot be taken as given that these few Turkish Americans make a geographic association to Mersin. As a case in point: Counsel for the Applicant is fluent in Turkish, is the son of a Turkish immigrant to the United States, and is a consumer of Turkish foods. Counsel has travelled to Turkey on numerous occasions. However, even Counsel was unaware that Mersin was the name of a city in Turkey until the Examiner pointed it out in an office action.

There is no evidence in the record that some Americans may have heard of Mersin, located in the Mersin province, country of Turkey. Other than a curious food purchaser typing Mersin into a search engine, the run-of-the-mill dairy and pastry purchaser would not make any geographical connection between the product and geographical location. In fact, the first item listed in a Google search of the term “Mersin” is not Mersin, Turkey but Mersin Food Products. In fact, the Examining Attorney could not produce any documents of probative value that would support his claims that the average American consumer of dairy and pastry products would be confuse Mersin’s products with Mersin, Turkey. Instead, the examiner attempts the “kitchen sink approach” and pulls some food critic stories for Turkish food, some blogs from Mersin residents, and some travel related sites and articles targeted to Europe and Middle Eastern travelers to support his contention that Mersin is as well-known as cities such as Detroit, Michigan or Houston, Texas. Cities such as Detroit, Michigan are known world-wide as the home of the largest automotive industry in the world. Mersin is not even an industrial hub in Turkey let alone **in the world** in anything. When all of these factors are properly evaluated, there is no goods/place association by the relevant purchasing public, and a reversal of the refusal of

registration is requested.

Further, the Examiner has shown no evidence to rebut the Applicant's Declaration (Exhibit BA Signed Affidavit.pdf) which confirms the **relevant consumers** of Applicant's products. The Examiner's evidence provides nothing to show that the relevant public i.e. Turkish-Americans, Arab-Americans, Greek-Americans, Armenian-Americans and Cypriot-Americans are familiar with the products or there has ever been a goods/place association. The Examiner also fails to rebut that the relevant consumer of Applicant's product is composed of various ethnicities, not just Turkish-Americans.

The fundamental flaw in the Examining Attorney's decision is that consumers would recognize the term "Mersin" as the geographical source of the goods. There is no evidence in the record to support this incorrect conclusion. It is clear, that the geographic meaning is obscure, minor, remote, or not likely to be connected with the goods and the Examining Attorney's denial should be reversed.

C. Mersin Already received Trademark Protection in Neighboring Countries

Mersin has already successfully applied and received trademark protection in the following countries: (1) Bahrain, (2) Kuwait, (3) Jordan, (4) Qatar, (5) Saudi Arabia and is currently under the final registration process in Egypt and the UAE. These countries have already determined that dairy product purchasers in the Middle East will not confuse the Mersin mark with Mersin, Turkey. These foreign registrations buttress that even in these countries with Arab consumers with a deeper knowledge of Turkey, there is still no goods/place association since Mersin Turkey is an obscure and remote geographic location. The average dairy and pastry and food purchaser in Bahrain, Kuwait, Jordan, Qatar, and Saudi Arabia (as opposed the average American consumer) would be far more likely to be familiar with the geographical location of Mersin, Turkey. But, yet the governing agencies of Bahrain, Kuwait, Jordan, Qatar, and Saudi Arabia concluded their consumers would not confuse the brand Mersin with Mersin,

Turkey. While these foreign registrations are not dispositive to the registration of mark in the United States, they go a long way in suggesting the lack of goods/place association. If Mersin's primary customers overseas are not confused, the likelihood of the average American consumer being confused is miniscule. Therefore, the USPTO should look for guidance from other governing bodies to aid and assist in the correct decision for this case and reverse the decision of Examining Attorney and register the Mersin trademark in the United States.

CONCLUSION

For the reasons set forth herein, the opinion of the Examining Attorney should be reversed and Applicant/Appellant should be given registration of the Mersin mark.

Dated this 14th day of August 2016.

Respectfully submitted,



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